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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XE070

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Geophysical Surveys in the Atlantic Ocean.

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of applications for incidental harassment authorization (IHA); request for comments and information.

SUMMARY: NMFS has received multiple requests for authorization under the Marine Mammal Protection Act (MMPA) to take marine mammals incidental to conducting geophysical survey activity in the Atlantic Ocean. NMFS is announcing receipt of these requests and invites information, suggestions, and comments on the applications.

DATES: Comments and information must be received no later than *[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*.

ADDRESSES: Comments on the applications should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Laws@noaa.gov*.

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted to the Internet at www.nmfs.noaa.gov/pr/permits/incidental/oilgas.htm without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Availability

Electronic copies of the applications may be obtained by visiting the Internet at: www.nmfs.noaa.gov/pr/permits/incidental/oilgas.htm.

In 2014, the Bureau of Ocean Energy Management produced a Programmatic Environmental Impact Statement (PEIS) to evaluate potential significant environmental effects of geological and geophysical (G&G) activities on the Mid- and South Atlantic Outer Continental Shelf (OCS), pursuant to requirements of the National Environmental Policy Act. These activities include geophysical surveys in support of oil and gas exploration and development, as are proposed in the MMPA applications before NMFS. The PEIS is available at: www.boem.gov/Atlantic-G-G-PEIS/.

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified area, the incidental, but not intentional, taking of small numbers of marine mammals, providing that certain findings are made and the necessary prescriptions are established.

The incidental taking of small numbers of marine mammals may be allowed only if NMFS (through authority delegated by the Secretary) finds that the total taking by the specified activity during the specified time period will (i) have a negligible impact on the species or stock(s) and (ii) not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). Further, the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking must be set forth, either in specific regulations or in an authorization.

The allowance of such incidental taking under section 101(a)(5)(A), by harassment (which is defined to include behavioral harassment and injury), serious injury, death, or a combination thereof, requires that regulations be promulgated for the specific activity. Subsequently, a Letter of Authorization may be issued pursuant to the prescriptions established in such regulations, providing that the level of taking will be consistent with the findings made for the total taking allowable under the specific regulations. Under section 101(a)(5)(D), NMFS may authorize such incidental taking by harassment only, for periods of not more than one year, pursuant to requirements and conditions contained within an IHA. The proposed incidental take authorization and establishment of prescriptions through either specific regulations or an IHA requires notice and opportunity for public comment.

NMFS has defined “negligible impact” in 50 CFR 216.103 as “...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.” Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines “harassment” as: “...any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].”

The use of sound sources such as those described in the applications (e.g., airgun arrays) may result in the disturbance of marine mammals through disruption of behavioral patterns or may cause auditory injury of marine mammals. Therefore, incidental take authorization under the MMPA is warranted.

Summary

In 2014, we received four separate requests for authorization for take of marine mammals incidental to oil and gas industry geophysical surveys in the Atlantic Ocean. Upon review of these requests, we submitted questions, comments, and requests for additional information to the individual applicant companies. As a result of these interactions, the applicant companies provided revised versions of the applications and we have determined that these revised versions are sufficiently complete to begin processing.

On August 18, 2014, we received an application from Spectrum Geo Inc., followed by revised versions on November 25, 2014, May 14, 2015, and July 6, 2015. TGS-NOPEC Geophysical Company submitted an application on August 25, 2014, followed by revised

versions on November 17, 2014, and July 21, 2015. We also received a request from ION GeoVentures on September 5, 2014, followed by a revised version on June 24, 2015. Finally, TDI-Brooks International, Inc. submitted a request for authorization on October 22, 2014.

All requested authorizations would be for the statutory maximum of one year from the date of effectiveness, with the exception of ION GeoVentures, which has requested a period of validity from July through December 2016. The first four applicants propose to conduct 2D marine seismic surveys using airgun arrays, whereas the fourth (TDI-Brooks) proposes to conduct deep water multibeam bathymetry and sub-bottom profiler data acquisition (i.e., not using airgun arrays). Generally speaking, these surveys may occur within state and U.S. waters including the Exclusive Economic Zone and waters out to 350 nmi, from Delaware to approximately Cape Canaveral, Florida. Please see the applications for specific details of survey design.

Information Solicited

NMFS is seeking public input on these requests for authorization as outlined below and request that interested persons submit information, suggestions, and comments concerning the applications (see **ADDRESSES**). We will only consider comments that are relevant to marine mammal species that occur in U.S. waters of the Mid- and South Atlantic and the potential effects of geophysical survey activities on those species. NMFS is particularly interested in information addressing the following topics:

- Best available scientific information and appropriate use of such information in assessing potential effects of the specified activities on marine mammals and their habitat;
- Application approaches to estimating acoustic exposure and take of marine mammals;

- Appropriate mitigation measures and monitoring requirements for these activities.

Comments indicating general support for or opposition to oil and gas exploration and development are not relevant to this request for information and will not be considered.

Comments should be supported by data or literature citations as appropriate. We will consider all relevant information, suggestions, and comments related to the requests during the development of proposed authorizations governing the incidental taking of marine mammals.

Dated: July 23, 2015.

Perry F. Gayaldo,

Deputy Director,

Office of Protected Resources,

National Marine Fisheries Service.

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